Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 6, 1991

Mr. Ronald E. Manthey
Attorney for Dallas Area Rapid Transit
Jenkins & Gilchrist
1445 Ross Avenue, Suite 3200
Dallas, Texas 75202-2711

OR91-398

Dear Mr. Manthey:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 13066.

You have received a request for copies of documents relating to an in-house appeal of a terminated employee of Dallas Area Rapid Transit (DART). The requested information includes transcripts of the testimony of six individuals who appeared before a DART appeals board and EEO-4 Reports of the DART board for the calendar years 1986 through 1989. You inform us that you have no objections to releasing the EEO-4 Reports. However, you claim that the requestor is representing the terminated employee against DART in a suit for wrongful discharge and that the transcripts of the testimony are therefore excepted from required public disclosure under section 3(a)(3) of the Open Records Act.

Section 3(a)(3) permits withholding information related to pending or reasonably anticipated litigation. Open Records Decision No. 551 (1990). We agree that you may withhold the requested tanscripts of testimony under section 3(a)(3).
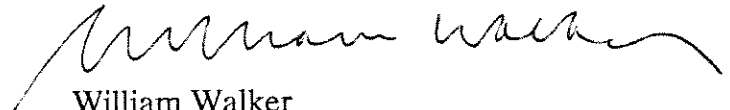
We note that you have also sent us information not included in the request. Please be advised that we do not here address the status of that information under the Open Records Act.

Because case law and prior published open records decisions resolve your

request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-398.

Yours very truly,

William Walker
Assistant Attorney General
Opinion Committee

WW/GK/lb

Ref.: ID# 13066, 13055, 13264

cc: Mr. James F. Gruben
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